

AUG 18 2008

PTO/SB/52 (05-08)

Approved for use through 05/31/2010, OMB 0651-0033

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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<b>REISSUE APPLICATION DECLARATION BY THE ASSIGNEE</b>		Docket Number (optional) 0624-4129
I hereby declare that:		
The residence, mailing address and citizenship of the inventors are stated below.		
I am authorized to act on behalf of the following assignee: <u>Bayer CropScience Inc.</u>		
and the title of my position with said assignee is: <u>Vice President, Secretary and General Counsel</u>		
The entire title to the patent identified below is vested in said assignee.		
Inventor <u>Laurence C. Mudge</u>	Citizenship <u>U.S.A.</u>	
Residence/Mailing Address <u>8 Andram Road, Camden, SC 29020</u>		
Inventor <u>N/A</u>	Citizenship	
Residence/Mailing Address		
<input type="checkbox"/> Additional inventors are named on separately numbered sheets attached hereto.		
Patent Number <u>5,599,804</u>	Date of Patent Issued <u>February 4, 1997</u>	
I believe said inventor(s) to be the original and first inventor(s) of the subject matter which is described and claimed in said patent, for which a reissue patent is sought on the invention entitled:		
<u>FUNGICIDAL COMPOSITIONS FOR THE ENHANCEMENT OF TURF QUALITY</u>		
the specification of which		
<input type="checkbox"/> is attached hereto.		
<input checked="" type="checkbox"/> was filed on <u>May 19, 2004</u> as reissue application number <u>10</u> / <u>849,509</u>		
and was amended on <u>Dec. 27, 2006 and Apr. 29, 2006</u> (if applicable)		
I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.		
I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.		
<input type="checkbox"/> I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b). Attached is form PTO/SB/02B (or equivalent) listing the foreign applications.		
I verily believe the original patent to be wholly or partly inoperative or invalid, for the reasons described below. (Check all boxes that apply.)		
<input type="checkbox"/> by reason of a defective specification or drawing.		
<input checked="" type="checkbox"/> by reason of the patentee claiming more or less than he had the right to claim in the patent.		
<input type="checkbox"/> by reason of other errors.		

[Page 1 of 2]

This collection of information is required by 37 CFR 1.175. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1460, Alexandria, VA 22313-1460. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1460, Alexandria, VA 22313-1460.

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AUG 18 2008

PTO/SB/32 (06-08)

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## REISSUE APPLICATION DECLARATION BY THE ASSIGNEE

Docket Number (Optional) 0624-4129

At least one error upon which reissue is based is described as follows:

See Attached Additional Sheets

(Attach additional sheets, if needed.)

All errors corrected in this reissue application arose without any deceptive intention on the part of the applicant.

I hereby appoint:

☒ Practitioners associated with Customer Number:

27123

OR

☐ Practitioner(s) named below:

Name	Registration Number

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.

Correspondence Address: Direct all communications about the application to:

☒ The address associated with Customer Number:

27123

OR

☐ Firm or Individual Name

Address

City

State

Zip

Country

Telephone

Email

## WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

Signature

Date

Full name of person signing (given name, family name) Bruce Mackintosh

Address of Assignee 2 T.W. Alexander Drive, Research Triangle Park, NC 27709

(Page 2 of 2)

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AUG 18 2008

**REISSUE APPLICATION DECLARATION BY ASSIGNEE****ADDITIONAL SHEETS RE: ERROR(S) UPON WHICH REISSUE IS BASED****In re Reissue of: U.S. Patent No. 5,599,804****Inventor: Laurence C. Mudge****Serial No.: 10/849,509****Filed: May 19, 2004****For: FUNGICIDAL COMPOSITIONS FOR THE  
ENHANCEMENT OF TURF QUALITY**

One such error being relied upon as a basis for reissue, which caused applicant to claim more than it was entitled to, arises when the claims are construed to embrace the presence of a fungicidal compound not mentioned in the claims, i.e. mancozeb. Under such a claim construction: (A) the method claims (claims 1-9) of the patent could be construed to embrace a method of combatting fungi and enhancing turf quality in turfgrass which comprises applying to said turfgrass synergistic fungicidally effective amounts of a monoester salt of a phosphorous acid of the specified formula (including the compound known as "fosetyl-Al"), phthalocyanine and the fungicidal compound mancozeb; and (B) the fungicidal composition claims (claims 10-21) of the patent could be construed to embrace a mixture of a monoester salt of a phosphorous acid of the specified formula (including "fosetyl-Al"), phthalocyanine and the fungicidal compound mancozeb.

The foregoing possible claim construction, whereby the method and composition patent claims are construed to include the non-recited fungicidal compound mancozeb, does not appear to be consistent with the '804 patent specification at Column 5, lines 10-30. There it states: "The synergistic combinations ["first active agent" and benzoporphyrin/phthalocyanine] according to the invention may be used with advantage in admixture with one another or with

other known fungicides, such as..." - - but mancozeb is not mentioned in the recited list of other known fungicides.

If the '804 patent claims were so construed to embrace a composition or method including mancozeb, the patent claims would be invalid over the prior art Lucas U.S. Patent 5,336,661, a reference of record and considered during the original prosecution for the '804 patent. The Lucas '661 patent describes in the Examples and Table 3 the treatment of crown and root rot with a mixture of the active fungicide ingredients of mancozeb plus fosetyl-Al, obtained by mixing together the commercial fungicides known under the names FORE™ (active ingredient: mancozeb) and ALIETTE™ (active ingredient: fosetyl-Al). See, e.g. '661 patent at Column 4, lines 45-65 and Table 3. As stated in the '804 patent at Column 7, lines 65-66, the fungicide FORE™ contains both mancozeb and Pigment Blue 15, which is a phthalocyanine dye.

The independent claims 1 and 10, as presented in the reissue application, are patentably distinguished over the prior art mixture of ALIETTE™ and FORE™ because they exclude mancozeb and therefore, the product FORE™.

Two additional errors are sought to be corrected in the presented claims 1 and 10. In Patent claim 10, the term "tier" is changed to "for" to correct an obvious mistake. In Patent claim 1, the expression "1 part by weight of" has been relocated to apply to the "first active agent" including both components (i) and (ii), rather than only applying to component (i) as written in patent claim 1. This correction is consistent with patent claim 2 which refers to "1 part by weight" as pertaining to the "first active agent." This is also consistent with patent claim 10 which applies the expression "1 part by weight" to the "first active agent"

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3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
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PTO/SB/05 (09-04)  
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**STATEMENT UNDER 37 CFR 3.73(b)**Applicant/Patent Owner: Bayer CropScience Inc.Application No./Patent No.: 10/849,509/  
U.S. Pat. 5,599,804Filed/Issue Date: Reissue Appl. Filed May 19, 2004  
Patent Issued

Entitled:

"Fungicidal Compositions For The Enhancement of Turf  
Quality"Bayer CropScience Inc.a Corporation  
(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)(Name of Assignee)  
states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest. The extent (by percentage) of its ownership interest is \_\_\_\_\_%

In the patent application/patent identified above by virtue of either:

- A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 7517, Frame 0831, or for which a copy thereof is attached.

OR

- B. ☒ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: Laurence C. Mudge To: Rhone Poulenc Inc. The document was recorded in the United States Patent and Trademark Office at Reel 17517, Frame 0831, or for which a copy thereof is attached.
2. From: \_\_\_\_\_ To: \_\_\_\_\_ The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.
3. From: \_\_\_\_\_ To: \_\_\_\_\_ The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

☒ Additional documents in the chain of title are listed on a supplemental sheet.☒ Copies of assignments or other documents in the chain of title are attached. [NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

\_\_\_\_\_  
SignatureAugust 1, 2008  
DateBruce Mackintosh  
Printed or Typed Name\_\_\_\_\_  
Telephone NumberVice President, Secretary and General Counsel  
Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1460, Alexandria, VA 22313-1460. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1460, Alexandria, VA 22313-1460.

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AUG 18 2008

Attorney Docket No. 0624-4129

**SUPPLEMENTAL SHEET TO STATEMENT UNDER 37 CFR 3.73(b)**  
**LISTING ADDITIONAL ATTACHED DOCUMENTS IN CHAIN OF TITLE**

RE: Reissue of Letters Patent 5,599,804  
Applicant Laurence C. Mudge  
Serial Number 10/849,509, Filed on May 19, 2004  
Examiner Alton Nathaniel Pryor (Art Unit 1616)  
Entitled: FUNGICIDAL COMPOSITIONS FOR THE  
ENHANCEMENT OF TURN QUALITY

The documents identified below establish Bayer CropScience Inc. as owner of the entire right, title and interest in the above identified patent and this reissue application. True and accurate copies of the four documents identified below are attached hereto.

1. Assignment from the inventor, Laurence C. Mudge to Rhone-Poulenc Inc., which was recorded in the U.S. Patent and Trademark Office on June 8, 1995, at Reel 7517, Frame 0631.
2. The name of Rhone-Poulenc Inc. was changed to Rhone-Poulenc Ag Company Inc., on or about May 29, 1998.
3. The name Rhone-Poulenc Ag Company Inc. was changed to Aventis CropScience USA Inc., as of January 5, 2000.
4. The corporate name of AventisCrop Science USA Inc. was changed to its present name, Bayer CropScience, Inc., on or about September 20, 2002.

1158960 v1

**DOCUMENT 1**

**RECORDATION OF ASSIGNMENT DOCUMENT FROM  
LAURENCE C. MUDGE TO RHONE-POULENC, INC.  
FOR APPLICATION NUMBER 08/415,934, AND USP  
5,599,804**

1159329 v1





3575-2 K

UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

OCTOBER 22, 1995

PTAS

KENNETH D. SIBLEY  
BELL, SELTZER, PARK & GIBSON, P.A.  
POST OFFICE DRAWER 34009  
CHARLOTTE, NC 28234



\*100029506A\*

UNITED STATES PATENT AND TRADEMARK OFFICE  
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

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RECORDATION DATE: 06/08/1995

REEL/FRAME: 7517/0631  
NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:  
MUDGE, LAURENCE C.

DOC DATE: 05/31/1995

ASSIGNEE:  
RHONE-POULENC, INC.  
2 T. W. ALEXANDER DRIVE  
RESEARCH TRIANGLE PARK  
NORTH CAROLINA  
27709SERIAL NUMBER: 08415934  
PATENT NUMBER:FILING DATE: 04/03/1995  
ISSUE DATE:

TONYA LEE, EXAMINER  
ASSIGNMENT DIVISION  
OFFICE OF PUBLIC RECORDS

RECEIVED

OCT 27 1995

BELL, SELTZER, PARK &amp; GIBSON

STOKES

**DOCUMENT 2**

**CERTIFICATE AMENDING THE CHANGE OF NAME  
OF CORPORATION FROM RHONE-POULENC INC. TO  
RHONE-POULENC AG COMPANY INC.**

1159329 v1

F980727000371

CT-07

CT-07

CERTIFICATE OF AMENDMENT  
OF  
CERTIFICATE OF INCORPORATION  
OF  
RHONE-POULENC INC.

UNDER SECTION 805 OF THE BUSINESS CORPORATION LAW

2  
Rhodia, Inc.  
CN 7500  
Crainbury, NJ 08512

STATE OF NEW YORK  
DEPARTMENT OF STATE  
FILED JUL 27 1998  
TAX S  
BY: JB  
NY

BILLED

980727000392

07/21/98 TUE 13:37 FAX 8098800287

RHODIA LEGAL CRAN A

f 980727 000371 002

CT-07

**CERTIFICATE OF AMENDMENT  
OF THE CERTIFICATE OF INCORPORATION  
OF  
RHONE-POULENC INC.**

UNDER SECTION 805 OF THE BUSINESS CORPORATION LAW

WE, THE UNDERSIGNED, THIERRY AMAT and  
JOHN P. DONAHUE, being respectively the VICE PRESIDENT and  
SECRETARY of Rhone-Poulenc Inc, hereby certify:

1. The name of the corporation is Rhone-Poulenc Inc.
2. The original certificate of incorporation of said corporation was filed by the Department of State on the 26<sup>th</sup> day of March, 1948 under the name Rhodia Inc, which name was changed on October 18, 1978.
3. The certificate of incorporation is amended to change the name of the corporation and the address of the principal place of business of the corporation:

(a) To effect the foregoing, Article I is amended to read as follows: The name of the corporation is Rhone-Poulenc Ag Company Inc.

4. The amendments were authorized in the following manner: by a quorum of the Board of Directors at a meeting of the Board of Directors held on May 29, 1998, by unanimous written consent of the Board of Directors and by consent of the sole shareholder of the corporation.

IN WITNESS WHEREOF, I have signed this certificate on the 1<sup>st</sup> day of July, 1998 and affirm that the statements contained therein as true under penalties of perjury.

Name: THIERRY AMAT  
Title: VICE PRESIDENT

Name: JOHN P. DONAHUE  
Title: SECRETARY

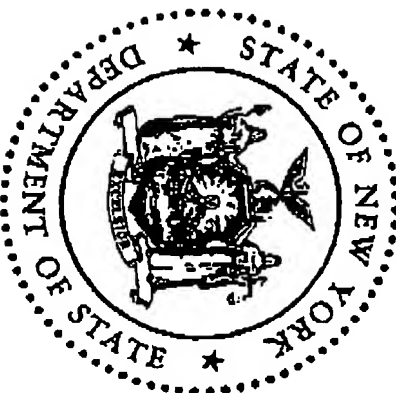
Any additional certificates of amendment.

State of New York }  
Department of State }

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.

Witness my hand and seal of the Department of State on

MAY 22 2000



A handwritten signature in cursive script, appearing to read "J. Blunk", is written over a horizontal line.

Special Deputy Secretary of State

DOS-1266 (5/79)

**DOCUMENT 3**

**CERTIFICATE AMENDING THE CHANGE OF NAME  
OF CORPORATION  
FROM RHONE-POULENC AG COMPANY INC. TO  
AVENTIS CROPSCIENCE USA INC.**

1159329 v1

JAN 23 2008 15:57

CT CORPORATION

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P.8

CT-07

F000105000845

CERTIFICATE OF AMENDMENT  
OF  
CERTIFICATE OF INCORPORATION  
OF  
RHONE-POULENC AG COMPANY INC.

Under Section 805 of the Business Corporation Law

I, the undersigned, being the Secretary of  
Rhône-Poulenc Ag Company Inc. do hereby certify:

1. The name of the corporation is Rhône-  
Poulenc Ag Company Inc.

2. The original certificate of incorporation  
of the corporation was filed by the Department of State  
on March 26, 1948 under the name Rhodia Inc.

3. The certificate of incorporation is hereby  
amended to change the corporation's name.

Article I of the certificate of incorporation  
relating to the corporate name is amended to read as  
follows:

I. The name of the Corporation is Aventis  
CropScience USA Inc.

4. This amendment to the certificate of  
incorporation was authorized by the unanimous written  
consent of the Board of Directors of the corporation and  
by written consent of the sole shareholder of the corpo-  
ration.

IN WITNESS WHEREOF, I have executed this Cer-  
tificate of Amendment this 3rd day of January, 2000, and  
hereby affirm the truth of the statements contained  
herein under the penalties of perjury.

By /s/ Randall A. Jones  
Name: Randall A. Jones  
Title: Secretary

157120-01-0.0. 518

JAN 05 2000 16:27 CT CORPORATION 1 518 463 6533 P.02  
F 000105000845

CT-07

CERTIFICATE OF AMENDMENT  
OF  
RHONE-POULENC AG COMPANY INC.  
UNDER SECTION 805 OF THE  
BUSINESS CORPORATION LAW

ICC  
STATE OF NEW YORK  
DEPARTMENT OF STATE  
JAN 05 2000

FILED

TAXS

BY:

MAK  
ny

Skadden, Arps, Slate, Meagher & Flom LLP  
CORPORATIONS DEPARTMENT  
ONE RODNEY SQUARE  
WILMINGTON, DE 19801-0000

DRAWDOWN

000105000881  
TOTAL P.02

2

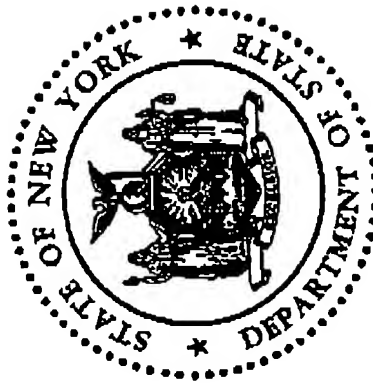


State of New York )  
Department of State ) ss:

I hereby certify that the annexed copy has been compared with the original document filed by the Department of State and that the same is a true copy of said original.

OCTOBER 31, 2002

Witness my hand and seal of the Department of State on



Secretary of State

DIS-200 (Rev. 02/02)

**DOCUMENT 4**

**CERTIFICATE AMENDING THE CHANGE OF NAME  
OF CORPORATION  
FROM AVENTIS CROPSCIENCE USA INC. TO  
BAYER CROPSCIENCE INC.**

1159329 v1

F020920000 690

CSC 45

CERTIFICATE OF AMENDMENT  
OF  
CERTIFICATE OF INCORPORATION  
OF  
AVENTIS CROPSCIENCE USA INC.

Under Section 805 of the Business Corporation Law

1. The name of the Corporation is:  
AVENTIS CROPSCIENCE USA INC.
2. The Certificate of Incorporation was filed by  
the Department of State on the 26th day of March  
1948 under the original name of RHODIA INC.
3. The Certificate of Incorporation is hereby amended  
to change the corporation's name.

Paragraph One of the Certificate of Incorporation  
is amended to read as follows:

- " 1. The name of the corporation is:  
BAYER CROPSCIENCE INC. "

4. This amendment to the Certificate of Incorporation was authorized by a vote of the Board of Directors followed by a vote of the holders of a majority of all outstanding shares entitled to vote thereon at a meeting duly held of the shareholders of the corporation.

  
Mahalingam Ramesh, President

F020920000690

CSC 45

## CERTIFICATE OF AMENDMENT

OF

AVENTIS CROPSCIENCE USA INC.

Under Section 805 of the Business Corporation Law

Filer:  
Aventis Cropscience USA LP  
2 Tw Alexander Drive  
Rtp, NC 27709  
747002/sal

2002 SEP 20 PM 2:26

FILED

STATE OF NEW YORK  
DEPARTMENT OF STATE

FILED SEP 20 2002

TAXS

BY:

Edu  
New York

2002 SEP 20 PM 2:04

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RECEIVED

3

020920000709

State of New York } ss:  
Department of State }

I hereby certify that the annexed copy has been compared with the original document filed by the Department of State and that the same is a true copy of said original.

OCTOBER 31, 2002

Witness my hand and seal of the Department of State on



Secretary of State

PX NS-2(B) (Rev. 03/02)

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